

Audit & Governance Committee

Date of Meeting: 06 December 2018

Report Title: Maladministration Decision Notices from Local Government and Social Care Ombudsman – June – August 2018

Portfolio Holder: Councillor Liz Wardlaw – Deputy Leader

Senior Officer: Daniel Dickinson – Acting Director of Legal Services

1. Report Summary

1.1. This report provides an update on the Decision Notices issued by the Local Government and Social Care Ombudsman (LGSCO) when their investigations have found maladministration causing injustice to complainants. This report details the decisions made between 1st June 2018 and 31st August 2018 only. There was one decision in which the LGSCO found that there was maladministration causing injustice; the relevant department has taken the recommended actions and learned lessons from the investigation outcomes. It is not possible to report on any Decision Notices issued from September 2018 to November 2018, as the LGSCO imposes a three month reporting embargo. Any decisions received after 31st August 2018 will be reported at a subsequent Audit & Governance meeting.

2. Recommendation

2.1. That the Committee notes the contents of this report and makes any further response it considers appropriate.

3. Reasons for Recommendation

3.1. The Terms of Reference for the Audit & Governance Committee include seeking assurance that customer complaint arrangements are robust and that recommendations agreed with the LGSCO are being implemented.

4. Background

- 4.1. The Local Government Act 1974 established the Local Government and Social Care Ombudsman (LGSCO). It empowers the Ombudsman to investigate complaints against councils and adult social care providers and to provide advice and guidance on good administrative practice. Once a complainant has exhausted the Council's Complaints procedure, their next recourse, should they remain dissatisfied with the Council's response, is to contact the LGSCO.
- 4.2. The LGSCO will assess the merits of each case escalated to them and seek clarification from the Council as necessary before making the decision to investigate a complaint. Once the LGSCO decides to investigate, they will try to ascertain if maladministration has occurred and whether or not there has been any resulting injustice to the complainant as a result of the maladministration.
- 4.3. In instances where maladministration and injustice is found, the LGSCO will make non-legally binding recommendations which they consider to be appropriate and reasonable. Although not legally binding, refusal to accept the LGSCO's recommendation will trigger a Public Report. A Public Report is a detailed account of the complaint, outlining the failures by the Council in this particular investigation; this can have a significant damaging effect on the Council's reputation.

5. Briefing Information

- 5.1. During the period between 1st June 2018 and 31st August 2018 the Council received one Decision Notices in which the LGSCO have concluded that there has been maladministration causing injustice. The details can be found in Appendix 1.

6. Implications

6.1. Legal Implications

- 6.2. There are no legal implications flowing directly from the content of this report.

6.3. Financial Implications

- 6.4. If fault causing injustice is found, the Council can be asked to pay compensation to a complainant the level of which is determined on a case by case basis. In the period being reported, the Council was not required to make any compensation payments.

6.5. Policy Implications

- 6.6. Adherence to the recommendations of the LGSCO is key to ensuring that customers have objective and effective recourse should they be unhappy with the way in which the Council has responded to their complaint.

6.7. Equality Implications

6.8. There are no equality implications flowing directly from the content of this report.

6.9. Human Resources Implications

6.10. There are no HR implications flowing directly from the content of this report.

7. Contact Information

Any questions relating to this report should be directed to the following officer:

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**Appendix 1 - LGSCO Decisions where maladministration with
injustice has taken place June – August 2018**

Service	Summary and Ombudsman's Final Decision	Agreed Action	Link to LGSCO Report
Special Educational Needs (SEN) Team	<p>Miss X complains the Council delayed in deciding not to assess her son for an EHCP (Education, Health and Care Plan) and in handling her request for mediation. The Council did delay and was at fault.</p> <p>The Council has agreed to apologise to Miss X for the delay. It has already reviewed its procedures to address the delays in requesting mediation. It has also decided to assess Miss X's son.</p>	<p>Within one month, the Council has agreed to apologise to Miss X for the delay in its decision not to assess Y and the later delay in handling Miss X's request for mediation.</p>	<p>https://www.lgo.org.uk/decisions/education/special-educational-needs/17-016-255</p>